

Bill No. CS for CS for SB 472, 1st Eng.

Barcode 560938

CHAMBER ACTION

Senate

House

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11 Senator Saunders moved the following amendment:

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Senate Amendment (with title amendment)

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On page 17, line 10, through

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page 22, line 6, delete those lines

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16

and insert: credit and criminal history record check as set

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forth in s. 744.3135, if required. Letters of guardianship

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must then be issued in the manner provided in s. 744.345.

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(5) After the assumption of duties by a standby

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guardian, the court shall have jurisdiction over the guardian

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and the ward.

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Section 7. Section 744.3115, Florida Statutes, is

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amended to read:

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744.3115 Advance directives for health care.--In each

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proceeding in which a guardian is appointed under this

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chapter, the court shall determine whether the ward, prior to

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incapacity, has executed any valid advance directive under

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~~pursuant to~~ chapter 765. If any ~~such~~ advance directive exists,

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the court shall specify in its order and letters of

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guardianship what authority, if any, the guardian shall

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1 exercise over the surrogate. Pursuant to the grounds listed in
 2 s. 765.105, the court, upon its own motion, may, with notice
 3 to the surrogate and any other appropriate parties, modify or
 4 revoke the authority of the surrogate to make health care
 5 decisions for the ward. For purposes of this section, the term
 6 "health care decision" has the same meaning as in s. 765.101.

7 Section 8. Section 744.3135, Florida Statutes, is
 8 amended to read:

9 744.3135 Credit and criminal investigation.--

10 (1) The court may require a nonprofessional guardian
 11 and shall require a professional or public guardian, and all
 12 employees of a professional guardian who have a fiduciary
 13 responsibility to a ward, to submit, at their own expense, to
 14 an investigation of the guardian's credit history and to
 15 undergo level 2 background screening as required under s.
 16 435.04. If a credit or criminal history record check is
 17 required, the court must consider the results of any
 18 investigation before appointing a guardian. At any time, the
 19 court may require a guardian or its employees to submit to an
 20 investigation of the person's credit history and complete a
 21 level 1 background screening as set forth in s. 435.03. The
 22 court shall consider the results of any investigation when
 23 reappointing a guardian. The clerk of the court shall maintain
 24 a file on each guardian appointed by the court and retain in
 25 the file documentation of the result of any investigation
 26 conducted under this section. A professional guardian must pay
 27 the clerk of the court a fee of up to \$7.50 for handling and
 28 processing professional guardian files.

29 (2) The court and the Statewide Public Guardianship
 30 Office shall accept the satisfactory completion of a criminal
 31 history record check by any method described in this

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1 subsection. A guardian satisfies the requirements of this
2 section by undergoing:

3 (a) An electronic fingerprint criminal history record
4 check. A guardian may use any electronic fingerprinting
5 equipment used for criminal history record checks of public
6 employees. The guardian shall pay the actual costs incurred by
7 the Federal Bureau of Investigation and the Department of Law
8 Enforcement for the criminal history record check. The agency
9 that operates the equipment used by the guardian may charge
10 the guardian an additional fee, not to exceed \$10, for the use
11 of the equipment. The agency completing the investigation must
12 immediately send the results of the criminal history record
13 check to the clerk of the court and the Statewide Public
14 Guardianship Office. The clerk of the court shall maintain the
15 results in the guardian's file and shall make the results
16 available to the court; or

17 (b) A criminal history record check using a
18 fingerprint card. The clerk of the court shall obtain
19 fingerprint cards from the Federal Bureau of Investigation and
20 make them available to guardians. Any guardian who is so
21 required shall have his or her fingerprints taken and forward
22 the proper fingerprint card along with the necessary fee to
23 the Florida Department of Law Enforcement for processing. ~~The~~
24 professional guardian shall pay to the clerk of the court a
25 fee of up to \$7.50 for handling and processing professional
26 guardian files. The results of the fingerprint card criminal
27 history record checks shall be forwarded to the clerk of the
28 court who shall maintain the results in the guardian's a
29 guardian file and shall make the results available to the
30 court and the Statewide Public Guardianship Office. ~~If credit~~
31 or criminal investigations are required, the court must

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1 ~~consider the results of the investigations before appointing a~~
2 ~~guardian. Professional guardians and all employees of a~~
3 ~~professional guardian who have a fiduciary responsibility to a~~
4 ~~ward, so appointed, must resubmit, at their own expense, to an~~
5 ~~investigation of credit history, and undergo level 1~~
6 ~~background screening as required under s. 435.03, at least~~
7 ~~every 2 years after the date of their appointment. At any~~
8 ~~time, the court may require guardians or their employees to~~
9 ~~submit to an investigation of credit history and undergo level~~
10 ~~1 background screening as required under s. 435.03. The court~~
11 ~~must consider the results of these investigations in~~
12 ~~reappointing a guardian.~~

13 (3)(a) A professional guardian, and each employee of a
14 professional guardian who has a fiduciary responsibility to a
15 ward, must complete, at his or her own expense, a level 2
16 background screening as set forth in s. 435.04 before and at
17 least once every 5 years after the date the guardian is
18 appointed. A professional guardian, and each employee of a
19 professional guardian who has a fiduciary responsibility to a
20 ward, must complete, at his or her own expense, a level 1
21 background screening as set forth in s. 435.03 at least once
22 every 2 years after the date the guardian is appointed.

23 However, a person is not required to resubmit fingerprints for
24 a criminal history record check if he or she has been screened
25 using electronic fingerprinting equipment and the fingerprints
26 are retained by the Department of Law Enforcement in order to
27 notify the clerk of the court of any crime charged against the
28 person in the State of Florida or elsewhere as appropriate.

29 (b) Effective December 15, 2006, all fingerprints
30 electronically submitted to the Department of Law Enforcement
31 under this section shall be retained by the Department of Law

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1 Enforcement in a manner provided by rule and entered in the
 2 statewide automated fingerprint identification system
 3 authorized by s. 943.05(2)(b). The fingerprints shall
 4 thereafter be available for all purposes and uses authorized
 5 for arrest fingerprint cards entered in the statewide
 6 automated fingerprint identification system under s. 943.051.

7 (c) Effective December 15, 2006, the Department of Law
 8 Enforcement shall search all arrest fingerprint cards received
 9 under s. 943.051 against the fingerprints retained in the
 10 statewide automated fingerprint identification system under
 11 paragraph (b). Any arrest record that is identified with the
 12 fingerprints of a person described in this paragraph must be
 13 reported as soon as possible to the clerk of court. The clerk
 14 of court must forward any arrest record received for a
 15 professional guardian to the Statewide Public Guardianship
 16 Office within 5 days. Each guardian who elects to submit
 17 fingerprint information electronically shall participate in
 18 this search process by paying an annual fee to the Statewide
 19 Public Guardianship Office of the Department of Elderly
 20 Affairs and by informing the clerk of court and the Statewide
 21 Public Guardianship Office of any change in the status of his
 22 or her guardianship appointment. The amount of the annual fee
 23 to be imposed for performing these searches and the procedures
 24 for the retention of guardian fingerprints and the
 25 dissemination of search results shall be established by rule
 26 of the Department of Law Enforcement. At least once every 5
 27 years, the Statewide Public Guardianship Office must request
 28 that the Department of Law Enforcement forward the
 29 fingerprints maintained under this section to the Federal
 30 Bureau of Investigation.

31 (4)(a) A professional guardian, and each employee of a

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1 professional guardian who has a fiduciary responsibility to a
 2 ward, must complete, at his or her own expense, an
 3 investigation of the credit history of the person before and
 4 at least once every 2 years after the date of the guardian's
 5 appointment.

6 (b) The Statewide Public Guardianship Office shall
 7 adopt a rule detailing the acceptable methods for completing a
 8 credit investigation under this section. If appropriate, the
 9 Statewide Public Guardianship Office may administer credit
 10 investigations. If the office chooses to administer the credit
 11 investigation, the office may adopt a rule setting a fee, not
 12 to exceed \$25, to reimburse the costs associated with the
 13 administration of a credit investigation.

14 (5) The Statewide Public Guardianship Office may
 15 inspect at any time the results of any credit or criminal
 16 history record check of a public or professional guardian
 17 conducted

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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 2, line 27, delete that line

23

24 and insert:

25 pay an annual fee to the Statewide Public
 26 Guardianship Office of the Department of
 27 Elderly Affairs for the

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